

Procedural Frequently Asked Questions

Q. I am currently covering a gang-related murder trial. Some of the testimony is being spoken in Spanish, with witnesses using sentences as well as single words. Am I required to record statements phonetically and research the spelling, or should I use a parenthetical (i.e., speaking in Spanish)?

A. CCP Section 185(a) says, in pertinent part: “Every written proceeding in a court of justice in this state shall be in the English language, and judicial proceedings shall be conducted, preserved, and published in no other.”

This covers depositions as well as court proceedings, since a deposition is a judicial proceeding. In court it is incumbent upon the judge to require everyone to speak in English or provide interpreters so that the record may be captured in English. If a judge fails to follow through on this, the CSR should offer a gentle reminder. In a deposition, the court reporter should clearly inform all parties present that he or she will only be capturing testimony spoken in English.

In the event that Spanish is spoken intermittently, the following simple parentheticals may be used to produce the transcript for proceedings.

Q: Did you see the gun?

A: No. Carlos (speaks in Spanish). I told you.

Q: Did you speak to an investigator from my office?

A: (Speaks in Spanish)

It would be inappropriate for the court reporter, even if he or she spoke Spanish and understood what was said, to act as an interpreter and report the English equivalent or to report the Spanish phonetically and get someone else to translate it later. In the case of more exotic foreign languages, the court reporter may not know what language is being spoken. If this occurs, the following parenthetical may be used: (speaks in a foreign language).

Q. Yesterday I prepared readback for the jury, crossing out sustained questions and answers as well as colloquy of overruled objections. A disagreement arose with one of the attorneys regarding sustained objections. The attorney’s position was that sustained questions and answers should still be read back absent a motion to strike. The jury ended up reaching a verdict while the discussion took place, but I’m still curious as to what correct protocol is in this instance.

A. Reading back only questions and answers to which there was not a sustained objection is correct. Questions and answers which are the subject of a sustained objection, whether or not a motion to strike is granted, are never to be read back to a jury. When a judge sustains an objection, he or she is ruling that the question or answer is legally improper and may not be considered by the jury. Therefore, jurors are not entitled to hear it again during readback.

Q. Is the handling and delivery of a judgment debtor's examination the same as any other deposition? If there is no stipulation, does it go by Code?

A. A judgment debtor's examination is treated like any other court proceeding, even though they are often conducted outside the courtroom. While they usually start out in open court, where the case is called, the judgment debtor is typically placed under oath by the clerk, and then the judge sends the group to a nearby room to conduct the examination. A court reporter is not always present, but may be. If the examination goes smoothly, the parties most often leave without checking back in with the judge. However, if the judgment debtor refuses to answer questions or didn't bring the document requested, they will return to open court for the judge's intervention. Again, any transcript produced is treated like any other court transcript, with no right to read and correct, and no sealing of the original.

Q. What code states that both attorneys have the right to have the court reporter read back? I reported a deposition recently where counsel would not allow the opposing counsel to request readback.

A. There is nothing in the code that addresses readback. Opposing counsel states the objection, and then the deposition proceeds subject to the objection per the code. California Code of Civil Procedure (CCP) 2025.460(b) reads: "Unless the objecting party demands that the taking of the deposition be suspended to permit a motion for a protective order under Sections 2025.420 and 2025.470, the deposition shall proceed subject to the objection." So, although it would be civil and polite to allow readback, CCP 2025.470 is widely interpreted to mean that everyone involved must agree to go off record or the reporter must stay on the record. By extension, as long as one person keeps talking and refuses to go off the record, readback cannot take place.